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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,924	07/08/2003	Robert Radulescu	P10-1301	9233
21839	7590	06/02/2005	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			MAKI, STEVEN D	
POST OFFICE BOX 1404				
ALEXANDRIA, VA 22313-1404			ART UNIT	PAPER NUMBER

1733

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,924

Applicant(s)

RADULESCU, ROBERT

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 070803.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1) If applicant desires benefit of a previously filed application under 35 U.S.C. 120, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence(s) of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or

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120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

The first sentence of the specification does not state: "This application is a continuation of PCT/EP01/14693 filed 12/13/2001.". In view of MPEP 201.11 page 200-64 Rev. 2 May 2004, it appears that no petition is necessary. In other words, it appears that -- This application is a continuation of PCT/EP01/14693 filed 12/13/2001.-- may be inserted before the first line of the specification without filing a petition.

2) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3) Claims 3, 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 4 are indefinite because each of these claims recite "one of Claim 2". In other words, the dependency of claims 3 and 4 is unclear.

In claims 4 and 6, there is no clear antecedent basis for "the ribs provided with incisions" and "the longitudinal grooves". How many ribs / grooves are required? Also, the relationship, if any between the "ribs not provided with incisions of varying inclination" and the ribs of claim 1 is unclear. In claim 4, it is suggested to make the following changes: (1) on line 1 after "wherein" insert --the two ribs forming the edges are not provided with incisions and--; (2) three lines from bottom, change "the ribs" to --the at least one intermediate rib--; and (3) on the last line, change "longitudinal grooves (2)" to --grooves of generally circumferential direction--.

4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Japan 923

6) **Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 923 (JP 8-66923).**

See figure 1, figure 2, abstracts and machine translation; especially figure 1. The claimed incisions read on the sipes formed by the metal blade of figure 1.

Havens

7) Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havens (US 2261025) in view of German 697 (DE 19506697).

Havens discloses a tire having a tread comprising six ribs wherein the intermediate ribs have isolated slits (isolated incisions) having a width of about 0 mm (page 2 top right) and the shoulder ribs have no slits. In the thickness direction of the tread, the slits have constant orientation (i.e. they are oriented at 0 degrees with respect to the perpendicular to the outer surface of the tread). However, it would have been an obvious alternative to obvious to one of ordinary skill in the art to vary the inclination of Haven's isolated slits (isolated incisions) as claimed since German 697, directed to forming cuts (incisions of virtually zero width at the tread surface), teaches that isolated cuts (isolated incisions) which have varying inclination in the thickness direction of the tread (figure 8) are an alternative to isolated cuts (isolated incisions), which are at 0 degrees to a line perpendicular to the tread surface (figure 5). As to claims 4 and 6, it would have been obvious to provide Havens' ribs and slits such that the claimed relationship is satisfied in view of Haven's teaching to arrange the slits of desired depth in "at least some" of the ribs; it being noted that since units such as mm, inch, mm², etc. are not specified for the pitch, depth and areas, the claimed relationship is sufficiently broad to read on slits arranged according to Havens teachings.

8) Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Havens (US 2261025) in view of German 697 (DE 19506697) as applied above and further in view of Europe 104 (EP 810104).

As to claim 8, it would have been obvious to provide the slit (incision) of varying inclination with at least two rectilinear portions in the radial direction since Europe 104, disclosing a sipe (incision) having varying inclination in the radial direction, teaches that the curve of such a sipe (incision) may comprise a rectilinear part at each end ((col. 8 lines 30-35).

Lurois

9) Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lurois (US 5896905) in view of Europe 104 and optionally German 697.

Lurois, directed to improving wear, discloses a tire having a tread comprising ribs wherein the intermediate ribs are provided with incisions having a width less than 3 mm and the shoulder ribs are not provided with incisions. The incisions are inclined with respect to the radial direction at an angle α of 5-25 degrees to improve wear. Lurois does not recite providing the incisions with a varying inclination in the tread thickness direction. However, it would have been obvious to one of ordinary skill in the art to provide Lurois's incisions, which are inclined with respect the radial direction, such that in the region from to tread surface to a depth not more than 1/3 the groove depth, the incisions have varying inclination and is inclined at an angle not more than 5 degrees as claimed since (1) Europe 104 suggests providing sipes (incisions) in a tread with a varying inclination such that the inclination at the tread surface may be 0 degrees

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with respect to the perpendicular to the tread surface for the benefit of reducing wear at the edges of the sipes and obtaining good braking and traction properties and optionally (2) German 697 further suggests providing inclined incisions (cuts) with a varying inclination. It is acknowledged that Europe 104's teachings are primarily directed to blocks. However, Europe teaches that the inclined sipes of varying inclination may be used in "ribs". See col. 6 lines 6-14.

As to claims 2, 3 and 5, note Lurois's teaching to incline at 5-25 degrees and the suggestion from Europe 104 and the optional German 697 to vary the inclination from 0 degrees at the tread surface to a larger angle with respect to radial direction at the incision bottom.

As to claims 4 and 6, it would have been obvious to provide Lurois's ribs and incisions such that the claimed relationship is satisfied in view of Lurois's teaching to locate the incisions in intermediate ribs but not shoulder ribs and to space the incisions having a depth h_3 at a pitch of 0.005-0.013 times the circumferential length of the tire.

As to claim 7, Europe 104 and the optional German 697 each suggest an incision which is curved in the tread thickness direction.

As to claim 8, it would have been obvious to provide the inclined incisions of varying inclination with at least two rectilinear portions in the radial direction since Europe 104, disclosing a sipe (incision) having varying inclination in the radial direction, teaches that the curve of such a sipe (incision) may comprise a rectilinear part at each end ((col. 8 lines 30-35).

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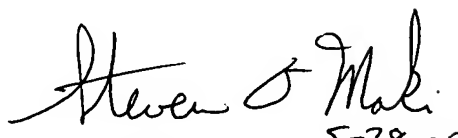
Remarks

- 10) The remaining references are of interest.
- 11) No claim is allowed.
- 12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
May 28, 2005


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~~GROUP 1300~~
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5-28-05